HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.9166 of 2007

Dated 10th October, 2007

Between

M. Sangameshwar Rao

…..Petitioner

and

The Vijaya Cooperative Urban Bank Ltd (W)
6-3-200/B/6, Road No.1, Banjara Hilla, Hyderabad, and, ors

….Respondents

HONOURABLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.9166 of 2007

ORDER:

In this Writ Petition, the petitioner has questioned the Award in ARC.No. 504/2002/CUB-G.D. dated 7-12-2002 passed by the Divisional Cooperative Officer/Arbitrator, second respondent herein, under Section 62(4) of the A.P. Cooperative Societies Act, 1964 and the consequential notice issued under Rule 52(6) of the AP Cooperative Societies Rules, 1964.

The third respondent had taken loan to the tune of Rs.30,000/- from the first respondent-Bank in the year 1999, agreeing to repay the same in 36 equal monthly installments. For the said loan amount, the petitioner herein and the fourth respondent stood as sureties, agreeing to pay the said amount in case of default by the principal barrower. As the Principal barrower defaulted in payment of the said loan, the first respondent-Vijaya Cooperative Urban Bank Limited filed claim petition before the Arbitrator in ARC.No. 504/2002/CUB-G.D,. for recovery of the loan amount. The Arbitrator after issuing necessary notice to the

principal barrower and the sureties, passed the Award on 7-12-2002 and to execute the said Award, further orders under Rule 52(6) of the AP Cooperative Societies Rules, 1964, are passed for attachment of the salary of the petitioner. It is the grievance of the petitioner that though he had informed the first respondent-bank not to sanction loan to the principal barrower/third respondent, loan was sanctioned, and, as such, he is not liable for payment of the outstanding loan amount. It is his further grievance that though Award was passed for Rs.57,143/-, but attachment order is passed to the extent of Rs.1,05,588/-.

Heard the learned Counsel for the petitioner and the learned Counsel appearing for the first respondent.

It is not in dispute that the petitioner stood as surety for the loan obtained by the third respondent. Though it is the case of the petitioner that in spite of informing the first respondent-bank not to sanction loan to the third respondent, loan was sanctioned to him, but, it has not been proved by filing any document in respect of the said defence. In that view of the matter, the award was passed by the Arbitrator against the principal barrower and the petitioner herein as early as on 7-12-2002. Though remedy of appeal against the award of the arbitrator is available, but, no steps have been taken by the petitioner to question the award of the Arbitrator. When the award is sought to be executed by issuing attachment order, the petitioner came up with this Writ petition. In absence of any proof of instruction as alleged by the petitioner to the respondent-bank not to sanction loan amount, I do not find any illegality in the award passed by the arbitrator. Even with regard to the other submission of the learned Counsel for the petitioner that though award is for an amount of Rs.57,143/-, but however, attachment order is passed to the tune of Rs.1,05,588/-, it is to be seen, award was passed for recovery of overdue amount of

Rs.57,143/- as on 30-9-2002, with future interest there from and calculating the interest from the date of award, i.e. 7-12-2002, Rs. 1,05,588/- is shown in the order of attachment including the interest. In any event, if there is any dispute with regard to quantum, it is for the petitioner to file claim petition before the authority under Rule 52 of the AP Cooperative Societies Rules, 1964 and the same is no ground for interference in this Writ Petition. I do not find any illegality in the award of the Arbitrator and consequential attachment order issued against the petitioner..

The Writ Petition is devoid of merits and is accordingly dismissed. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED:10-11-2007
Msnr.